

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KEITON SMITH,

Case No. 2:22-cv-872-CDS-EJY

Plaintiff,

v.

ORDER

NDOC, *et al.*,

Defendants.

This action commenced when Plaintiff filed his 42 U.S.C. § 1983 Civil Rights Complaint on June 1, 2022. ECF No. 1-1. Plaintiff also filed an application to proceed *in forma pauperis*. ECF No. 5. The financial information provided by Plaintiff demonstrates he is unable to prepay the filing fee in this matter. On August 4, 2022, the Court imposed a stay and ordered the parties to mediate with a court-appointed mediator. ECF Nos. 7, 10. A resolution was not reached. ECF No. 31.

For the foregoing reasons, **IT IS HEREBY ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 5) is **GRANTED**. Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

2. Under 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act, the Nevada Department of Corrections will forward payments from the account of **Keiton Smith, #1099870** to the Clerk of the United States District Court, District of Nevada, at a rate of 20% of the preceding month's deposits (in months that the account exceeds \$10.00) until the full \$402 filing fee has been paid for this action. The Clerk of the Court will **SEND** a copy of this Order to (1) the Finance Division of the Clerk's Office and (2) to the attention of the Chief of Inmate Services for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV 89702.

3. In the event that this action is dismissed, the filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

1 4. The Clerk of the Court will electronically **SERVE** a copy of this Order, the
2 Screening Order (ECF No. 7), and a copy of Plaintiff's First Amended Complaint (ECF No. 8) on
3 the Office of the Attorney General of the State of Nevada by adding the Attorney General of the
4 State of Nevada to the docket sheet. This does not indicate acceptance of service.

5 5. Subject to the findings of the Screening Order (ECF No. 7), within 21 days of the
6 date of entry of this Order, the Attorney General's Office must file a notice advising the Court and
7 Plaintiff of: (a) the names of the defendants for whom it accepts service; (b) the names of the
8 defendants for whom it does not accept service, and (c) the names of the defendants for whom it
9 is filing the last-known-address information under seal. As to any of the named defendants for
10 whom the Attorney General's Office cannot accept service, the Attorney General's Office must
11 file, under seal, but will not serve the inmate Plaintiff the last known address(es) of those
12 defendant(s) for whom it has such information. If the last known address of the defendant(s) is a
13 post office box, the Attorney General's Office must attempt to obtain and provide the last known
14 physical address(es).

15 6. If service cannot be accepted for any of the named defendant(s), Plaintiff must file
16 a motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying
17 a full name and address for the defendant(s). For the defendant(s) the Attorney General's Office
18 cannot provide last-known-address information, Plaintiff must provide the full name and address,
19 if known, for the defendant(s).

20 7. If the Attorney General's Office accepts service of process for any named
21 defendant(s), such defendant(s) must file and serve an answer or other response to the First
22 Amended Complaint (ECF No. 8) within 60 days from the date of this Order.

23 8. Service of the operative complaint on defendants must be accomplished within 90
24 days of the date of this Order.

25 9. Plaintiff must serve upon defendant(s) or, if an appearance has been entered by
26 counsel, upon their attorney(s), a copy of every pleading, motion or other document submitted for
27 consideration by the Court. Plaintiff must include with the original document submitted for filing
28 a certificate stating the date that a true and correct copy of the document was mailed or

1 electronically filed to the defendants or counsel for the defendants. If counsel has entered a notice
2 of appearance, Plaintiff must direct service to the individual attorney named in the notice of
3 appearance, at the physical or electronic address stated therein. The Court may disregard any
4 document received by a district judge or magistrate judge that has not been filed with the Clerk,
5 and any document received by a district judge, magistrate judge, or the Clerk that fails to include
6 a certificate showing proper service.

7 10. This case is no longer stayed.

8 DATED this 27th day of February, 2023.

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11 ELAYNA J. YOUCHAK
12 UNITED STATES MAGISTRATE JUDGE
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